

loans for similar purposes and periods of time.

(7) Be controlled by individuals engaged primarily and directly in farming or ranching in the United States after the loan is made.

(8) Be the owner or operator of not larger than a family farm after the loan is closed, when loan funds are used for soil and water conservation and protection purposes as defined in § 1943.66 (a)(1) through (a)(5) of this subpart. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

(9) If a tenant, has a satisfactory written lease for a sufficient period of time, and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any remaining value of the improvements upon termination of the lease.

(10) Consist of members, stockholders, partners, or joint operators, who are *individuals* and *not* corporation(s), partnership(s), cooperative(s) or joint operation(s).

(11) When loan funds will be used for soil and water conservation and protection purposes (§ 1943.66 (a)(1) through (a)(5) of this subpart), and the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, the requirements of § 1943.12(b)(5), (b)(7) (if limited resource applicant), and (b)(8) of subpart A of part 1943 of this chapter will apply.

(12) When loan funds will be used for soil and water conservation and protection purposes, and the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage, the requirements of § 1943.12(b)(6) of subpart A of part 1943 of this chapter will apply.

(c) *Borrower training.* The applicant must agree to meet the training requirements of § 1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative, corporation, partnership, or joint operation, any individual member, stockholder, partner, or joint operator hold-

ing a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

[53 FR 35706, Sept. 15, 1988, as amended at 56 FR 3972, Feb. 1, 1991; 58 FR 15072, Mar. 19, 1993; 58 FR 69199, Dec. 30, 1993]

§§ 1943.63–1943.65 [Reserved]

§ 1943.66 Loan purposes.

Loans that are consistent with all Federal, State, and local environmental quality standards may be made to:

(a) Pay costs for construction, materials, supplies, equipment, and services related to, soil and water conservation and protection purposes, such as:

(1) Installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences.

(2) Establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes.

(3) Establishment or improvement of permanent pasture.

(4) The conversion to and maintenance of sustainable agriculture production systems, as described by Department technical guides and handbooks.

(5) Payment of costs to build conservation structures or establish conservation practices on highly erodible land to comply with a conservation plan in accordance with part 12 of this title (see attachment 1 of exhibit M of subpart G of part 1940 of this chapter which is available in any FmHA or its successor agency under Public Law 103-354 office).

(6) Other purposes consistent which plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(7) The following items/purposes related to conservation and protection purposes and water quality are authorized:

(i) Sodding, subsoiling, land leveling, liming, and fencing.

(ii) Fertilizer and seed used in connection with a soil conservation practice or to establish or improve permanent vegetation.

(iii) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(iv) Reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, engineering or other technical services and first year insurance premiums which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(v) Purchase or repair of special-purpose equipment, such as terracing, land leveling, and ditching equipment, provided:

(A) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus the other costs related to improvement will not be more than if performed by a contractor or by another method.

(vi) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(A) The purchase of water stock or membership in an incorporated water users association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(1) The value of the land without the water supply or right is only an incidental part of the title price, and

(2) The water supply will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(vii) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(viii) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the Agricultural Stabilization and Conservation Service (ASCS) or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed \$1,000, the applicant will assign the payment to the FmHA or its successor agency under Public Law 103-354.

(ix) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(x) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(A) Such a loan may be made on land with defective title owned by the applicant or on land in which the applicant owns an undivided interest providing:

(1) The amount of funds used on such land is limited to \$25,000,

(2) There is adequate security for the loan, and

(3) The tract is not included in the appraisal report.

(B) Such a loan may be made on land leased by the applicant providing:

(1) The terms of the lease are such that there is reasonable assurance the

applicant will have use of the improvement over its useful life,

(2) A written lease provides for payment to the tenant or assignee for any remaining value of the improvement if the lease is terminated, and

(3) There is adequate security for the loan.

(b) Pay the costs of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures, if necessary, to comply with such pollution abatement requirements.

[58 FR 15073, Mar. 19, 1993]

§ 1943.67 Loan limitations.

An SW loan will not be approved if:

(a) The loan being made exceeds the lesser of the value of the farm or other security for the loan, or \$50,000.

(b) The total outstanding insured SW, Farm Ownership (FO) or Recreation (RL) loan principal balance including the new loan owned by the applicant will exceed the lesser of \$200,000, or the market value of the farm or other security.

(c) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public records between tracts.

(d) The limitation found in § 1943.79 (c) of this subpart is exceeded.

(e) The loan is made for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in exhibit M of subpart G of part 1940 of this chapter. Refer to FmHA Instruction 2000-LL (available in any FmHA or its successor agency under Public Law 103-354 Office) for assistance in implementation.

[53 FR 35706, Sept. 15, 1988, as amended at 58 FR 15074, Mar. 19, 1993]

§ 1943.68 Rates and terms.

(a) *Terms of loan.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of

the note or such shorter period as may be necessary to assure the loan will be adequately secured, taking into account the probable depreciation of the security. The loan approval official will also consider the repayment ability of the applicant, as reflected in the completed Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," or other similar plan of operation acceptable to FmHA or its successor agency under Public Law 103-354 when setting the terms. In any case, there must be an interest payment scheduled at least annually in accordance with the FMI for FmHA 1940-17, "Promissory Note." Loans may have reduced annual installments scheduled, of least partial interest, for the first five years.

(b) *Reamortization.* When the loan approval official determines that reamortization will assist in the orderly collection of any SW loan, the loan approval official may take such action under subpart S of part 1951 of this chapter.

(c) *Interest rate.* Upon request of the applicant, the interest rate charged by FmFA will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in exhibit B of FmHA Instruction 440.1 (available in any FmHA or its successor agency under Public Law 103-354 office) for the type of assistance involved. A lower rate may be established in this exhibit for a limited resource applicant when loan funds are being used for soil and water conservation and protection purposes denoted in § 1943.66 (a)(1) through (a)(5) of this subpart, subject to the following:

(1) The applicant meets the conditions of the definition for a limited resource applicant set forth in § 1943.54 of this subpart.

(2) The Farm and Home Plan and Business Analysis—Nonagricultural Enterprise form, when appropriate, indicates that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

[53 FR 35706, Sept. 15, 1988, as amended at 58 FR 15074, Mar. 19, 1993]